

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

KENNETH S. FERGUSON,

Petitioner,

v.

WARDEN,

Respondent.

CAUSE NO. 1:20-CV-225-HAB-SLC

OPINION AND ORDER

Kenneth S. Ferguson, proceeding pro se, filed a petition to expunge his State convictions under Ind. Code § 35-38-9. Upon review, the court determines that it lacks subject matter jurisdiction over the issues raised in in the petition. *See Buethe v. Britt Airlines, Inc.*, 749 F.2d 1235, 1238 (7th Cir. 1984). (“[I]t is axiomatic that subject matter jurisdiction cannot be waived, and that courts must raise the issue *sua sponte* when it appears that subject matter jurisdiction is lacking.”). As a federal district court, this court has subject matter jurisdiction over claims arising under federal law or for claims where there is diversity of citizenship between the parties. 28 U.S.C. § 1331; 28 U.S.C. § 1332. Ferguson, the sole party in this case, resides in the State of Indiana. Further, the petition seeks relief under State law and contains no indication of any violation of his constitutional or federal rights. As a result, it appears that the court lacks subject matter jurisdiction, and Ferguson cannot proceed on this petition in this court.

For these reasons, the court DISMISSES this case for lack of subject matter jurisdiction.

SO ORDERED on September 3, 2020.

s/ *Holly A. Brady*

JUDGE HOLLY A. BRADY
UNITED STATES DISTRICT COURT